

NOTICE OF AGENCY EMERGENCY RULE-MAKING

AGENCY: Department of Marine Resources

CHAPTER NUMBER AND TITLE: Chapter 36 Atlantic Herring; 2021 Season 2 Open

ADOPTED RULE NUMBER: (LEAVE BLANK - ASSIGNED BY SECRETARY OF STATE)

CONCISE SUMMARY:

The Days Out Commissioners have set four landing days for Season 2 (Trimester 3; October 1 – December 31) of the Atlantic herring fishery, Monday at 12:01 a.m. through Thursday at 11:59 p.m., beginning on Monday, November 8, 2021 at 12:01 a.m. All individuals harvesting herring are required to email their pre-land haul weight three hours prior to landing to herring.dmr@maine.gov. The Commissioner has determined that it is necessary to take emergency action to comply with the changes to the interstate management of the Atlantic herring resource and to reduce the risk of an overage in the Area 1A sub-ACL that could deplete the supply of Atlantic herring. The Commissioner hereby adopts this emergency regulation as authorized by 12 M.R.S. §6171(3)(C).

EFFECTIVE DATE: November 6, 2021

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DEPARTMENT OF MARINE RESOURCES

Chapter 36 Atlantic Herring

36.01 Herring Management Plan

B. Permits and reporting

(1) Dealer Permit.

All herring dealers shall obtain a herring dealers permit as part of the Wholesale Seafood License issued by the Department of Marine Resources. There will be no additional charge for this permit. The Commissioner may require that dealer permit holders report volumes of herring bought and sold and other information as required.

(2) Herring Harvester Permit

All herring harvesters must possess a Herring Harvester Permit on their Commercial Pelagic and Anadromous Fishing License issued by the Department of Marine Resources.

(3) Reporting of catch

All harvester vessels must report ~~through an approved electronic option~~ a pre-land hail weight three hours prior to landing by email to herring.dmr@maine.gov that includes the following information: harvester name, vessel name, date landed, gear type, total pounds, dealer name, and port landed.

Electronic trip level reporting is further described in 8.20(R).

~~Harvesters: See Chapter 8.20(Q) and 8.20(R)~~

~~Dealers: See Chapter 8.10 Landings Program~~

D. Catch restrictions.

License holders shall be informed by public notice in a newspaper circulated in the area affected of any restrictions herein.

(2) Catch quota

Fishing for herring in Management Areas 1A, 1B, 2 and 3 is subject to the sub-annual catch limit (ACL) and fishing effort restrictions specified by the ASMFC Atlantic Herring Board and the NEFMC in accordance with their respective Fisheries Management Plans (FMP). The ACL is established annually by July 1 for the following year by ASMFC and NEFMC. Any reduction in the harvest will be determined in consultation with the ASMFC and NEFMC. No person shall land herring taken from a management area when 92% of the area's seasonal or sub-annual catch limit will be exceeded or if 95% of the coastwide annual catch limit will be exceeded.

(a) Exception. Up to 30 mt of the Area 1A sub-ACL is allocated for the fixed gear fisheries in Area 1A (fish weirs and stop seines) west of Cutler. This Fixed Gear Set Aside (FGSA) is available for harvest by fish weirs and stop seines only within the fishing year until the FGSA is fully utilized. The FGSA is exempt from Days Out Program measures. No person shall land

herring taken from Area 1A with ~~fixed gear~~ fish weirs and stop seines when 92% of the fixed gear set-aside portion of the Management Area 1A sub-ACL will be exceeded.

(3) Effort Restrictions

(a) Management Area 1A, January 1 – May 31

The Atlantic herring sub-ACL in Management Area 1A is allocated by season. For the period of January 1 through May 31, 0% of the sub-ACL is allocated annually. Herring may only be landed from Management Area 1A on days that have been designated landing days by the Atlantic States Marine Fisheries Commission (ASMFC). ASMFC designates zero landing days between January 1 and May 31, annually.

(b) Management Area 1A, June 1 – December 31

For this period, 100% of the sub-ACL is allocated annually and split into two seasons: Season 1 (June 1 – September 30) and Season 2 (October 1 – December 31). Atlantic herring may only be landed from Management Area 1A on days that have been designated landing days by the ASMFC. A During Season 1, all vessels landing herring caught in Management Area 1A in any Maine port will be limited to fishing for and landing herring on days that have been designated landings days by the ASMFC. During Season 2, all vessels landing herring caught in Management Area 1A in any Maine port will be limited to landing herring on days that have been designated landings days by the ASMFC.

~~Zero landing days have been designated for Season 2, October 1 through December 31, 2021.~~

Four landing days have been designated for Season 2, October 1 through December 31, 2021 commencing Monday, November 8, 2021 at 12:01 a.m.

All vessels landing herring caught in Management Area 1A in any Maine port are limited to one landing per 24 hour period (12:01 a.m. to 11:59 p.m.).

i. For the purpose of this subsection, the following terms shall be defined as follows:

“Harvester vessel”: a purse seine vessel that is required to report the catch it has aboard (along with effort data under a gear code other than CAR) as the harvesting vessel on its Federal Vessel Trip Report.

“Carrier vessel”: a vessel that has received herring from another vessel and is not required to report that catch as its own on its Federal Vessel Trip Report; and, not rigged as a purse seine vessel.

ii. Harvester vessels:

(A) For all harvesters issued a state Commercial Pelagic and Anadromous license with a Herring Harvester Permit that do not possess a Federal Limited Access Herring Permit:

All harvester vessels may land Atlantic herring four days a week, beginning at 12:01 a.m. Monday to 11:59 p.m. Thursday. No vessel may land, take or possess more than 25,000 lbs per week. No permit holder may land, take or possess more than 25,000 lbs per week.

Exception: Harvesters using fixed gears (fishing weirs, stop seines, and pound nets) are not subject to the landing schedule detailed above. Weekly landing limits apply.

(B) For all vessels issued a Federal Limited Access Atlantic Herring Permit Category A:

All harvester vessels may land Atlantic herring four days a week, beginning at 12:01 a.m. Monday to 11:59 p.m. Thursday.

(C) For all vessels issued a Federal Limited Access Atlantic Herring Permit Category C:

All harvester vessels may land Atlantic herring four days a week, beginning at 12:01 a.m. Monday to 11:59 p.m. Thursday. Daily trip limit shall not exceed 55,000 lbs per day.

(D) For all vessels issued a Federal Limited Access Atlantic Herring Permit Category D:

All harvester vessels may land Atlantic herring four days a week, beginning at 12:01 a.m. Monday to 11:59 p.m. Thursday. Daily trip limit shall not exceed 6,600 lbs per day.

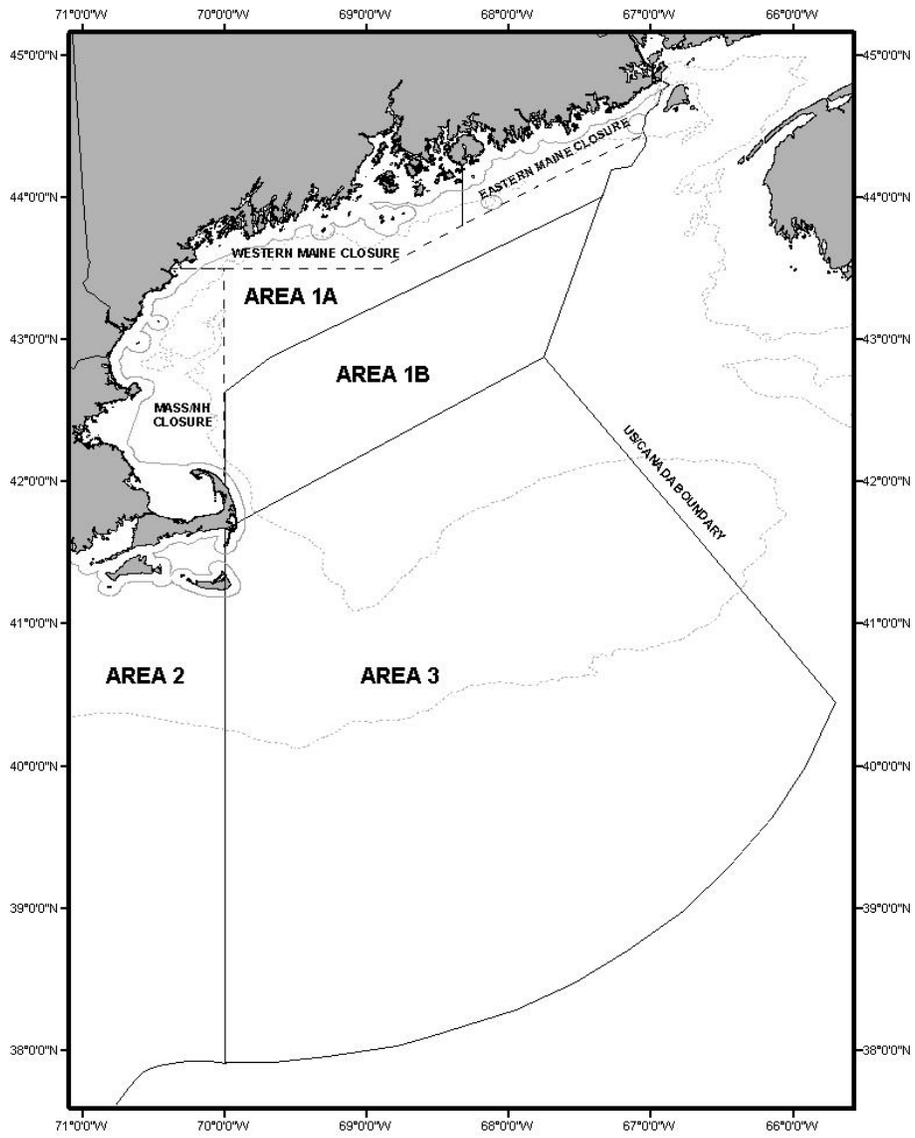
iii. Carrier Vessels:

Carrier vessels shall not operate as a harvester vessel on the same trip when operating as a carrier vessel.

(c) Exceptions.

Any vessel may possess herring as an incidental catch and land herring caught in Management Area 1A, 1B, 2 or 3, in any Maine port, as long as such herring do not comprise more than 10% of the total weight of the catch and not to exceed 2000 lbs per trip.

An individual may fish or take by hook and line up to 100 Atlantic herring per day for personal use only.



Basis Statement

The Days Out Commissioners have set four landing days for Season 2 (Trimester 3; October 1 – December 31) of the Atlantic herring fishery, Monday at 12:01 a.m. through Thursday at 11:59 p.m., beginning on Monday, November 8, 2021 at 12:01 a.m. All individuals harvesting herring are required to email their pre-land haul weight three hours prior to landing to herring.dmr@maine.gov. The Commissioner has determined that it is necessary to take emergency action to comply with the changes to the interstate management of the Atlantic herring resource and to reduce the risk of an overage in the Area 1A sub-ACL that could deplete the supply of Atlantic herring. The Commissioner hereby adopts this emergency regulation as authorized by 12 M.R.S. §6171(3)(C).

Rule-Making Fact Sheet

(5 M.R.S., §8057-A)

AGENCY: 13-188- Department of Marine Resources

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON:

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CHAPTER NUMBER AND RULE: Chapter 36 Atlantic Herring; 2021 Season 2 Open

STATUTORY AUTHORITY: 12 M.R.S. § 6171(3)(C)

DATE AND PLACE OF PUBLIC HEARING(S): NA

COMMENT DEADLINE: NA

PRINCIPAL REASON(S) OR PURPOSE FOR PROPOSING THIS RULE: [see §8057-A(1)(A)&(C)]

The Days Out Commissioners have set four landing days for Season 2 (Trimester 3; October 1 – December 31) of the Atlantic herring fishery, Monday at 12:01 a.m. through Thursday at 11:59 p.m., beginning on Monday, November 8, 2021 at 12:01 a.m. All individuals harvesting herring are required to email their pre-land haul weight three hours prior to landing to herring.dmr@maine.gov. The Commissioner has determined that it is necessary to take emergency action to comply with the changes to the interstate management of the Atlantic herring resource and to reduce the risk of an overage in the Area 1A sub-ACL that could deplete the supply of Atlantic herring.

IS MATERIAL INCORPORATED BY REFERENCE IN THE RULE? ___ YES ___ X NO [§8056(1)(B)]

ANALYSIS AND EXPECTED OPERATION OF THE RULE: [see §8057-A(1)(B)&(D)]

This rulemaking sets four landing days for Season 2 of the Atlantic herring fishery in Area 1A due to low available quota and variable weather conditions. To reduce risk of an overage, and to mitigate economic impacts related to operations, it was determined that four landing days was prudent.

BRIEF SUMMARY OF RELEVANT INFORMATION CONSIDERED DURING DEVELOPMENT OF THE RULE

Final action of effort control rules discussed during the Days Out meeting on November 4, 2021 have been incorporated into this regulation.

ESTIMATED FISCAL IMPACT OF THE RULE: [see §8057-A(1)(C)]

Enforcement of these proposed amendments will not require additional activity in this Agency. Existing enforcement personnel will monitor compliance during their routine patrols.

FOR EXISTING RULES WITH FISCAL IMPACT OF \$1 MILLION OR MORE, ALSO INCLUDE:

ECONOMIC IMPACT, WHETHER OR NOT QUANTIFIABLE IN MONETARY TERMS:

[see §8057-A(2)(A)]

INDIVIDUALS, MAJOR INTEREST GROUPS AND TYPES OF BUSINESSES AFFECTED AND HOW THEY WILL BE AFFECTED: [see §8057-A(2)(B)]

BENEFITS OF THE RULE: [see §8057-A(2)(C)]

Note: If necessary, additional pages may be used